



MAYOR AND CITY COUNCIL

809 Center Street, Room 10, Santa Cruz, CA 95060 • (831) 420-5020 • Fax: (831) 420-5011 • citycouncil@cityofsantacruz.com

March 2, 2010

Mr. Douglas J. Wade
U.S. Army Corps of Engineers
ATTN: CECW-CE
441 G Street, N.W.
Washington, DC 20314-1000

RE: COE-2010-0007

Dear Mr. Wade:

I am writing in response to the February 9, 2010 Notice in the Federal Register (COE-2010-0007) regarding a proposed "Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls." The City of Santa Cruz has a very specific comment with respect to the Policy Guidance Letter contained in the February 9, 2010 Notice. The City of Santa Cruz is requesting an exemption provision be added in Section 9 of the Special Considerations of the Policy Guidance Letter. Specifically, the City is requesting the following exemption provision from the variance procedures.

- i. If a Federally authorized levee system in the PL 84-99 program was authorized to contain vegetation and said vegetation was designed as part of the project, such projects shall not require a variance under the procedures contained herein to maintain the vegetation designed and installed as part of the project.

The City is requesting this exemption since the PL 84-99 project within the City of Santa Cruz, the San Lorenzo River Flood Control Project, was specifically authorized in the Water Resources Development Act of 1996 to contain a vegetation component. When the San Lorenzo River Flood Control Project was constructed the vegetation component was designed and installed to meet the hydraulic standards necessary for the project to provide the planned level of flood protection for our community.

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For your reference, I have attached to this letter a number of Corps of Engineers' (Corps) communications which specifically direct that vegetation be included in the San Lorenzo Flood Control Project. These documents are listed below and demonstrate that vegetation in the San Lorenzo Flood Control Project did not occur as an unplanned feature of the project. If more information is required to document the circumstances of the San Lorenzo River Flood Control Project we will gladly provide it to you. I am sure that there are other Corps PL 84-99 projects in similar circumstances which could benefit from the recommended exemption provision.

If the Corps were now to require a variance to maintain the vegetation designed as part of the San Lorenzo River Flood Control Project it would require our City and the Corps to undertake an expensive and unnecessary process. I believe that the Policy Guidance Letter needs to recognize those circumstances where vegetation was designed as part of a PL 84-99 project. The City of Santa Cruz does not wish to expend funds in a time of dire local financial constraints justifying vegetation features in the San Lorenzo River Flood Control Project which were designed as part of the project. It seems a duplication of effort and an unwise use of both Federal and local taxpayers' funds.

Sincerely,



Mike Rotkin
Mayor

cc: Congressman Sam Farr
Senator Dianne Feinstein
Senator Barbara Boxer

Attachments: WRDA Section 101 (5) (1996 Public Law 104-303—Oct. 12, 1996 110 Stat. 3663)
Memo from HQ. U.S. Army Corps of Engineers by Robert W. Burkhardt, Colonel
U.S. Army, Executive Director of Civil Works, April 14, 1997
HQ. U.S. Army Corps of Engineers, July 21, 1999 Press Release on Contract Award

Public Law 104-303
104th Congress

An Act

Oct. 12, 1996
[S. 640]

Water Resources
Development Act
of 1996.

33 USC 2201
note.

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Water Resources Development Act of 1996”.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—WATER RESOURCES PROJECTS

- Sec. 101. Project authorizations.
- Sec. 102. Small flood control projects.
- Sec. 103. Small bank stabilization projects.
- Sec. 104. Small navigation projects.
- Sec. 105. Small shoreline protection projects.
- Sec. 106. Small snagging and sediment removal project, Mississippi River, Little Falls, Minnesota.
- Sec. 107. Small projects for improvement of the environment.

TITLE II—GENERAL PROVISIONS

- Sec. 201. Cost sharing for dredged material disposal areas.
- Sec. 202. Flood control policy.
- Sec. 203. Cost sharing for feasibility studies.
- Sec. 204. Restoration of environmental quality.
- Sec. 205. Environmental dredging.
- Sec. 206. Aquatic ecosystem restoration.
- Sec. 207. Beneficial uses of dredged material.
- Sec. 208. Recreation policy and user fees.
- Sec. 209. Recovery of costs.
- Sec. 210. Cost sharing for environmental projects.
- Sec. 211. Construction of flood control projects by non-Federal interests.
- Sec. 212. Engineering and environmental innovations of national significance.
- Sec. 213. Lease authority.
- Sec. 214. Collaborative research and development.
- Sec. 215. National dam safety program.
- Sec. 216. Hydroelectric power project uprating.
- Sec. 217. Dredged material disposal facility partnerships.
- Sec. 218. Obstruction removal requirement.
- Sec. 219. Small project authorizations.
- Sec. 220. Uneconomical cost-sharing requirements.
- Sec. 221. Planning assistance to States.
- Sec. 222. Corps of Engineers expenses.
- Sec. 223. State and Federal agency review period.
- Sec. 224. Section 215 reimbursement limitation per project.
- Sec. 225. Melaleuca.
- Sec. 226. Sediments decontamination technology.
- Sec. 227. Shore protection.
- Sec. 228. Conditions for project deauthorizations.

(i) all operation, maintenance, repair, replacement, and rehabilitation costs associated with the improvements carried out under this paragraph; and

(ii) 25 percent of the costs incurred for the variable flood control operation of the Folsom Dam and Reservoir during the 4-year period beginning on the date of the enactment of this Act and 100 percent of such costs thereafter.

(2) HUMBOLDT HARBOR AND BAY, CALIFORNIA.—The project for navigation, Humboldt Harbor and Bay, California: Report of the Chief of Engineers, dated October 30, 1995, at a total cost of \$15,180,000, with an estimated Federal cost of \$10,000,000 and an estimated non-Federal cost of \$5,180,000.

(3) MARIN COUNTY SHORELINE, SAN RAFAEL, CALIFORNIA.—The project for hurricane and storm damage reduction, Marin County shoreline, San Rafael, California: Report of the Chief of Engineers, dated January 28, 1994, at a total cost of \$28,300,000, with an estimated Federal cost of \$18,400,000 and an estimated non-Federal cost of \$9,900,000.

(4) PORT OF LONG BEACH (DEEPENING), CALIFORNIA.—The project for navigation, Port of Long Beach (Deepening), California: Report of the Chief of Engineers, dated July 26, 1996, at a total cost of \$37,288,000, with an estimated Federal cost of \$14,318,000 and an estimated non-Federal cost of \$22,970,000.

(5) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of \$21,800,000, with an estimated Federal cost of \$10,900,000 and an estimated non-Federal cost of \$10,900,000 and habitat restoration, at a total cost of \$4,050,000, with an estimated Federal cost of \$3,040,000 and an estimated non-Federal cost of \$1,010,000.

(6) SANTA BARBARA HARBOR, CALIFORNIA.—The project for navigation, Santa Barbara Harbor, California: Report of the Chief of Engineers, dated April 26, 1994, at a total cost of \$5,840,000, with an estimated Federal cost of \$4,670,000 and an estimated non-Federal cost of \$1,170,000.

(7) SANTA MONICA BREAKWATER, CALIFORNIA.—The project for hurricane and storm damage reduction, Santa Monica Breakwater, Santa Monica, California: Report of the Chief of Engineers, dated June 7, 1996, at a total cost of \$6,440,000, with an estimated Federal cost of \$4,220,000 and an estimated non-Federal cost of \$2,220,000.

(8) ANACOSTIA RIVER AND TRIBUTARIES, DISTRICT OF COLUMBIA AND MARYLAND.—The project for environmental restoration, Anacostia River and Tributaries, District of Columbia and Maryland: Report of the Chief of Engineers, dated November 15, 1994, at a total cost of \$17,144,000, with an estimated Federal cost of \$12,858,000 and an estimated non-Federal cost of \$4,286,000.

(9) ATLANTIC INTRACOASTAL WATERWAY, ST. JOHNS COUNTY, FLORIDA.—The project for navigation, Atlantic Intracoastal Waterway, St. Johns County, Florida: Report of the Chief of Engineers, dated June 24, 1994, at a total Federal cost of \$15,881,000. Operation, maintenance, repair, replacement, and rehabilitation shall be a non-Federal responsibility, and the non-Federal interest shall assume ownership of the bridge.

CECW-PE (CESPK-BD-D/28 Jan 97) (1105) 2nd End
Fountain/202-761-1979
SUBJECT: Letter Report for Incorporating Habitat Restoration
into the San Lorenzo River, California, Project

HQ, US Army Corps of Engineers, Washington, DC 20314-1000 14 APR 1997
FOR Commander, South Pacific Division, ATTN: CESPD-ET-P

The subject report as been reviewed at the Washington level for compliance with agency policy and current guidance for flood control and habitat restoration projects. Approval is granted for combining the San Lorenzo River, California, flood control project feature, and the San Lorenzo River, California, Habitat Restoration feature as outlined in the subject report. The following comments must be addressed prior to processing of the PCA package.

- An updated letter of intent and financing plan explaining in detail the capability of the sponsor to provide its share of the project funding should be submitted as a part of the PCA package for the San Lorenzo River project.

- The Water Resources Development Act of 1996 (WRDA 1996) cites a cost for the San Lorenzo River, flood control project feature of \$21,800,000, and a cost of \$4,050,000 for the San Lorenzo River, habitat restoration feature. The combined cost of the authorized San Lorenzo River improvements reflects a total estimated project cost of \$25,850,000.

- The letter report combining the two project features for the San Lorenzo River improvement reflects an estimated project cost of \$20,607,000, based on October 1995 price levels. The submittal package for the PCA should contain an explanation documenting the differences in the estimated project cost of \$25,850,000 contained in WRDA 1996 and the estimated project cost of \$20,607,000 contained in the letter report.

FOR THE COMMANDER:



Encl

ROBERT W. BURKHARDT
Colonel, U.S. Army
Executive Director of Civil Works

Headquarters Department of the Army -- 21 Jul 1999 -- 1709 hrs -- Page 1 of 1

CONTRACT ANNOUNCEMENT

FROM

OFFICE OF THE SECRETARY OF THE ARMY
OFFICE OF LEGISLATIVE LIAISON
SPECIAL ACTIONS BRANCH
PENTAGON

RELEASE DATE: July 21, 1999

A copy of this announcement is being provided to:

Representative Tom Campbell
Representative Anna Eshoo
Representative Sam Farr
Representative Zoe Lofgren
Senator Dianne Feinstein
Senator Barbara Boxer

- ◊ Today, the Army awarded a contract to Zerimar Corporation, 1355 Vander Way, San Jose, California 95112.
- ◊ The amount of today's action is \$2,800,000. However, the estimated cumulative total value of the contract is \$6,952,930.
- ◊ The contract is for the raising of levees from the Riverside Avenue Bridge to Highway One Bridge, approximately 1 mile that range in height from 2 to 5 feet. The level of protection is the 70-year event, taking into consideration hydraulic uncertainty and future hydrologic conditions. Work also includes overbuilding the landside of the levee and planting trees, shrubs, and grass, along with installation of an irrigation system. A 2-year maintenance period of the plantings is required.
- ◊ The work will be performed in Santa Cruz, California
- ◊ The estimated contract completion date is July 19, 2001.

Your points of contact with the Army Legislative Liaison are Major Michael G. Santens, (703) 697-8133 or Ms. Juanita Cheeks, (703) 693-5689.